

58081.US

REMARKS

This amendment is filed in response to the office action dated November 17, 2005. Claims 1-21 are pending in the application. Claims 6-8, 12-16 and 18-21 are withdrawn. Claims 1-5, 9-11 and 17 are rejected. The drawings have been accepted. Reconsideration and favorable action are requested.

Claims 1-5, 9-11 and 17 were objected to for various informalities. All of the informalities have been corrected by this amendment.

Claim 11 was rejected under 35 USC Section 112 as being indefinite. The examiner was concerned about the definition of a "closure mechanism" and a "release mechanism". In particular, the examiner was concerned whether these limitations define the same structural elements in claim 1 and claim 11. The examiner is thanked for this opportunity to clarify the meaning of claim 11. The examiner correctly suggests that the definition of these terms is different in claims 11 and 1. To clarify claim 11, the closure mechanism has been renamed as a "holding mechanism" and the release mechanism has been renamed as a "opening mechanism". As an example, the holding mechanism and opening mechanism collectively may refer to the thumbscrew 124, the jaw 82, and the hinge attached to the jaw 82 as shown in figure 2. Likewise, these elements may collectively refer to the ring 482, the mount 484, the lever 486, the pivot point 488, and the spring latch 490. It is respectfully submitted that the amendment to claim 11 overcomes the rejection on the grounds that the claim was indefinite.

Claims 1, 2, and 5 were rejected under 35 USC Section 102 (b) as being anticipated by 2821762 (Foosse). The Foosse patent discloses an apparatus for holding a two chairs together. It does not enable the legs of the chair to support anything. The chair legs are already enabled by the structure of the chair itself, and the disclosed device is only designed to hold the chair legs together. Thus it is respectfully submitted that the Foosse reference does not disclose a holder that is "configured to hold and orient the poles to form a structure having a plurality of legs" as required by claim 1. Likewise, it is submitted that the holder of the Foosse reference does not position the legs for engaging the ground and creating a standing structure, as also required by claim 1.

58081.US

As amended, claim 1 requires a supported structure disposed adjacent the top of the standing structure. The claim further requires that the supported structure be supported by each of the poles. The Foose reference does not disclose a supported structure as defined by the amended claim 1. There is no single structure that is supported by each of the poles held by the device of the Foose patent. There are two chair seats shown in the Foose patent, but neither of these two seats are supported by each of the poles of the Foose fastener. This structural difference is a consequence of the entirely different functional purpose of the Foose device, which is to hold chairs together as a fastener rather than create a standing structure.

For these reasons claim 1 defines over the Foose reference and it is respectfully requested the claim 1 be allowed.

Claim 2 as amended provides that the hub is configured to hold at least three poles. The Foose reference is not configured to hold three poles. In fact, the Foose reference will only hold two legs of chairs. The ability to hold three poles is one feature that enables the hub to create the standing structure as defined in claim one. As previously discussed, the holder of Foose does not hold poles to form a standing structure. Instead, it holds legs of a standing structure that has already been independently formed, such as a chair. It is submitted that the ability to hold at least three poles is an important structural feature and provides an additional reason that claim 2 should be allowed and such action is requested.

Claim 5 as amended requires an over-the-center clamp operated by a lever. The Foose reference clearly discloses nothing remotely similar to such device and, therefore, allowance is requested.

Claims 1, 3, 4, and 17 were rejected under 35 USC Section 102 (b) as being anticipated by U.S. Patent No. 5975626 issued to Aycock. Claim 1 as amended provides that the closure mechanism secures the holder in a closed position to grip and secure the poles in a desired position without penetrating the poles. The tripod structure of the Aycock reference does not include a holder that will grip the poles. Instead, the Aycock reference provides holes through the poles, and pivot pins are inserted through the holes in the poles. The pins also penetrate holes in the hub structure. Thus, the poles pivot around the pins to move from a closed position and to an open position and back. It

58081.US

would be contrary to the teachings of the Aycock patent to allow the holder to grip the poles. Such a gripping action would interfere with the desired rotation of the poles.

In addition, claim 1 provides that the holder grip the polls without penetrating the poles. This language has been added to more clearly define over the Aycock reference where the pins clearly penetrate the poles. The holes and pins used by the Aycock reference are undesirable in several respects. First, the holes in the poles weaken the poles. Thus, the poles must be sized to accommodate this weak location in the pole, and the overall weight of the pole is increased. In addition, when the stool is disassembled, the hole in the pole may interfere with other uses for the pole. Thus, the gripping structure of the claimed holder is an important feature that defines over the reference.

For these reasons, allowance of claim 1 as amended is respectfully requested.

Claims 3, 4 and 17 provide additional important limitations that, in combination with claim 1, define a patentable combination. Allowance is requested.

Claims 2, 5, and 9-11 were rejected under 35 USC Section 103 (a) as being an unpatentable over Aycock in view of Workman. It is respectfully suggested that Aycock and Workman cannot logically be combined. As the examiner knows, the law requires that there be some suggestion or incentive for combining the teachings of two references. In this case, the purpose of the hub of the Aycock reference is to provide pivoting legs for a chair. There is no incentive to clamp the legs of the tripod stool in one position. In fact, the patent teaches the opposite. The legs should be allowed to move freely around the pivot pin.

In contrast, the Workman device is not designed to allow any pivotal motion of the two legs captured within it. In addition, the Workman device is not a structural device in the sense that it does not hold legs or poles to form a standing structure. Instead, it merely holds two legs of two chairs that form standing structures independently of the fastener. The fastener cannot hold legs to form a standing structure. Thus, the fastener of Workman performs a different function for a different purpose as compared to the Aycock reference. For all of these reasons, there is no suggestion or incentive to combine these references in the manner suggested by the examiner.

Even if the Workman device and the Aycock device were combined, it would not create the apparatus of claim 1. The Workman device grips the chair legs with a force

58081.US

sufficient to hold the legs together. However, even a cursory review of the device reveals that it would be a relatively flimsy device and is not designed to grip the legs of the structure sufficiently to form a structure or create a standing structure. The plastic snap 16 and the living hinge 11 are obviously weak flexible structures that would be incapable of creating the clamping force necessary to hold the legs and grip sufficiently to create a standing structure. For this reason, even if the two references are combined, they are insufficient to disclose the structure of claim 1. That is, the two references combined would not create a structure that would grip poles to form a standing structure.

For these reasons, allowance of Claims 1, 2, 5, and 9-11 is requested.

It is believed that Claim 1 is generic with respect to the embodiments covered by the withdrawn claims and the applicant requests an opportunity to add dependent claims specific to the other embodiments.

The applicant has now made an earnest attempt to place this case in condition for allowance. However, if the examiner believes that a phone call would facilitate the early disposition of this case, he is respectfully requested to call the undersigned. In addition, if any fees are owing or if an additional extension of time is necessary, the Patent Office is authorized to charge our deposit account number 12-2355 and the necessary extension of time is requested.

Respectfully submitted,

LUEDEKA, NEELY & GRAHAM P.C.

By:


Andrew S. Neely 28,979

2005.05.17